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Officials Defend Deceit In Retrieving Secrets

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Administration officials who helped draft President Reagan's controversial order on classifying government secrets suggested yesterday that deception might be justified to retrieve mistakenly released information.

"It would depend on the circumstances and what was involved," Deputy Assistant Attorney General Richard Willard told the House Government Information subcommittee.

The issue came up in the course of a hearing on the scope of Reagan's executive order, which is scheduled to go into effect Aug. 1.

It would permit the reclassification of information previously declassified and disclosed if it were determined that the information "requires protection in the interest of national security and the information may reasonably be recovered."

Rep. Ted Weiss (D-N.Y.) pressed Willard and Steven Garfinkel, director of the executive branch's Information Security Oversight Office, on what "reasonable recovery" might mean in light of a recent incident involving 30-year-old Air Force intelligence records.

Government archivists declassified those records in December for a researcher delving into U.S. relations with Israel. But the records were retrieved under a pretext that they were temporarily needed for record-keeping. The Air Force then snipped and classified a number of the papers. It subsequently relented under threat of a lawsuit and intervention by Garfinkel.

Garfinkel took the position that "deception" was perhaps too strong a

word for that case. Weiss disagreed, then asked whether Garfinkel thought deception "a reasonable course" to get back information.

"Ordinarily no, it is not reasonable," Garfinkel replied. He replied in similar fashion about the use of force or illegal entry, saying that "ordinarily" such steps would not be reasonable, but adding that he wouldn't want to rule them out completely.

Willard said he did not think illegal entry or "unauthorized force" would be reasonable, but for deception, he said "it would depend."

The new rule permitting reclassification of information supplants a provision of the current order, issued by President Carter in 1978, that states that "classification may not be restored to documents already declassified and released to the public."

Garfinkel criticized that standard as "an inflexible rule" that did not permit the government to rectify declassification mistakes.

"Under the old order, the door is closed," he said. "Under the new order, we're just opening the door a very little bit." In the future, he added, there may be "situations where you may have to open the door a little bit further," but these, he said, would be dealt with "on an ad hoc basis."